IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.Rev.Pet.No. 128 of 2000()

CRA.79/1997 of ADDL.SESSIONS COURT,-I, MAVELIKKARA
ST.819/1995 of JUDL.MAGISTRATE OF FIRST CLASS-I, CHENGANNUR
.....

REVN. PETITIONER: APPELLANT/ ACCUSED

SADANANDAN, ANANDA BHAVAN VEEDU,
EDAPPON MURI, NOORANADU VILLAGE

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS: RESPONDENTS/ COMPLAINANT
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1. **ANANDAN, KANDATHIL THARYIL VEEDU,**
   THRIPPERUMTHURA THEKKUM MURI,
   THRIPPERUMTHURA VILLAGE,
   CHENNITHALA.

2. **STATE OF KERALA,**
   REP.BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA.

BY ADV. SRI.K.SASIKUMAR
PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

tss

CRL.Rev.Pet.No . NO.128/2000

ORDER ON CRL.MP. 750/2000 IN CRL.Rev.Pet.No 128/2000

DISMISSED

26.09.2007 **SD/- J.B.KOSHY, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

tss

J.B.KOSHY, J.

Criminal R.P.No.128 OF 2000 (A)

Dated this the 26th day of September, 2007

O R D E R

Appellant was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act. According to the complainant in discharge of a debt of Rs.10,000/- due from the accused, he issued the cheque and it was dishonoured by the Bank for insufficiency of funds and despite statutory notice, amount was not paid and hence complaint was filed. The cheque was marked as Ext.P1. Return memo was marked as Ext.P2. The endorsement in the cheque shows that cheque was dishonoured for insufficiency of funds. Ext.P4 is the Postal receipts and ext.P5 is the acknowledgment card which shows that statutory formalities of sending notice etc. were complied with. According to the defence 313 statement, execution of the cheque was admitted. The only ground was that the cheque was given in connection with the visa transaction and no evidence was adduced to show that he was compelled to give the cheque in a visa transaction. Trial court as well as the

appellate court found him guilty. He was sentenced to simple imprisonment for one month and to pay a fine of Rs.6,000/- and in default of payment to undergo simple imprisonment for the period of three months. I see no ground to interfere in the conviction passed by the court below. It has been held by the Supreme Court that compensation amount to be imposed under the N.I.Act is similar to demand imposed in a civil case. Considering the nature of the offence concerned, I alter the sentence to two weeks simple imprisonment and a compensation of Rs.12,000/-. As the cheque amount was only for Rs.10,000/-, interest is also to be taken into account. If the fine amount as assessed by the court below is already paid, it can be adjusted towards the compensation amount and if not paid, it can be realised as per the provisions of Section 421 read with Section 431 of the Cr.P.C. On realisation of the compensation amount, it shall be given to the complainant. With the above observations this revision petition is disposed of.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.R.P.128 OF 2000

O R D E R

26th September, 2007